



Department of Energy
Washington, DC 20585

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September 30, 2009

Chairman Daniel R. Elliott III
Office of Chairman
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20420-0001



RE: Docket Nos. 38302S and 38376S

Dear Chairman Elliott:

The order entered in these dockets July 27, 2005 (served August 2, 2005, and effective September 1, 2005), approving the Government's settlement agreement with Union Pacific Railroad Company, further held these proceedings in abeyance while directing the Government to file quarterly reports on the progress of settlement negotiations. The Government continues to pursue settlement with individual carriers and has been engaged in separate discussions with individual railroad defendants BNSF and Norfolk Southern. Following up on our most recent report, the Government continues to await a response from BNSF to information supplied by the Government following the parties' February 3, 2009, meeting. In addition, the Government continues to await Norfolk Southern's response to information supplied by the Government following the parties' June 17, 2008, meeting.

Accordingly, we are not yet in a position to report an agreement with either BNSF or Norfolk Southern. However, we remain interested in working with the carriers to reach agreements. We will file a further report by the end of December 2009.

Sincerely,

Stephen C. Skubel
Assistant General Counsel
For Litigation
(202) 586-5579

cc: Vice Chairman Charles D. Nottingham
Board Member Francis P. Mulvey
Attached Service List

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Office of Proceedings

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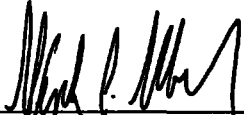


CERTIFICATE OF SERVICE

I, Stephen C. Skubel, hereby certify that I served a copy of the foregoing document by prepaid first-class mail this 30th day of September 2009, on the following:

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Montana Rail Link, Inc. 101 International Way Missoula, MT 59808	James R. Paschall Greg E. Summy Norfolk Southern Railway Company Three Commercial Place Norfolk, VA 23510
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